

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF MAINE

3 -----  
4 UNITED STATES OF AMERICA, CRIMINAL ACTION

5 Plaintiff Docket No:2:10-cr-200-DBH-1

6  
7 -versus-

8  
9 TREZJUAN THOMPSON,

10 Defendant  
11 -----

12 Transcript of Proceedings

13 Pursuant to notice, the above-entitled matter came on  
14 for **Rule 11 Proceeding** held before **THE HONORABLE D.**  
15 **BROCK HORNBY**, United States District Judge, in the  
16 United States District Court, Edward T. Gignoux  
Courthouse, 156 Federal Street, Portland, Maine on the  
31st day of May, 2011 at 11:46 a.m. as follows:

17 Appearances:

18 For the Government: Darcie N. McElwee, Esquire  
Assistant United States Attorney

19 For the Defendant: J. Hillary Billings, Esquire  
Assistant Federal Defender

20  
21  
22  
23 Dennis R. Ford  
24 Official Court Reporter

25 (Prepared from manual stenography and  
computer aided transcription)

11:32:14 1 (Open court. Defendant present)

11:46:08 2 THE COURT: Good morning.

11:46:09 3 MS. MCELWEE: Good morning, Your Honor.

11:46:11 4 THE COURT: This is criminal number 10-200,  
11:46:16 5 United States versus Trezjuan Thompson and I understand  
11:46:20 6 the matter is on this morning for a change of plea to  
11:46:24 7 Counts 1, 3 and 5 of the indictment.

11:46:29 8 Ms. McElwee, have necessary victims been notified?

11:46:32 9 MS. MCELWEE: They have, Your Honor.

11:46:33 10 THE COURT: And are there any here to be  
11:46:36 11 heard?

11:46:36 12 MS. MCELWEE: No.

11:46:37 13 THE COURT: Mr. Billings, I hope you're  
11:46:39 14 feeling all right. I understand you were not well this  
11:46:42 15 weekend. Are you ready to proceed?

11:46:43 16 MR. BILLINGS: I am ready.

11:46:44 17 THE COURT: Thank you. Would you and your  
11:46:45 18 client please stand. Are you Trezjuan Thompson, the  
11:46:50 19 person named as a defendant in this indictment?

11:46:52 20 THE DEFENDANT: Yes, sir.

11:46:53 21 THE COURT: Would you pull that microphone  
11:46:54 22 closer so we can all hear you, please. Thank you. How  
11:46:57 23 far did you go in school, sir?

11:46:58 24 THE DEFENDANT: 9th grade.

11:46:59 25 THE COURT: Have you recently been seeing any

11:47:01 1 doctor or psychiatrist?

11:47:02 2 THE DEFENDANT: No, sir.

11:47:03 3 THE COURT: Are you currently taking any  
11:47:04 4 medicines?

11:47:05 5 THE DEFENDANT: No, sir.

11:47:05 6 THE COURT: Have you used any drug or alcohol  
11:47:08 7 in the last 24 hours?

11:47:09 8 THE DEFENDANT: No, sir.

11:47:10 9 THE COURT: Do you feel you understand what's  
11:47:12 10 happening in these proceedings?

11:47:13 11 THE DEFENDANT: Yes, sir.

11:47:14 12 THE COURT: Has your lawyer explained to you  
11:47:16 13 the consequences that may flow from these proceedings?

11:47:18 14 THE DEFENDANT: Yes, sir.

11:47:19 15 THE COURT: Do you authorize your lawyer,  
11:47:22 16 Attorney Hilary Billings, to speak for you?

11:47:25 17 THE DEFENDANT: Yes, sir.

11:47:25 18 THE COURT: I understand you want to change  
11:47:26 19 your plea to Counts 1, 3 and 5 of the indictment; is  
11:47:31 20 that correct?

11:47:31 21 THE DEFENDANT: Yes, sir.

11:47:32 22 THE COURT: Mr. Billings, do you approve of  
11:47:33 23 the change of plea and recommend that I accept it?

11:47:35 24 MR. BILLINGS: Yes, I do.

11:47:36 25 THE COURT: The clerk may proceed.

11:47:37 1 THE CLERK: Trezjuan Thompson, on  
11:47:41 2 December 22nd, 2010, you entered a plea of not guilty  
11:47:43 3 to Counts 1 through 6 of the indictment bearing  
11:47:47 4 criminal number 10-cr-200-DBH. How do you now plead to  
11:47:52 5 Counts 1, 3 and 5 of the indictment; do you plead  
11:47:55 6 guilty or not guilty?

11:47:58 7 THE DEFENDANT: I plead guilty.

11:48:00 8 THE CLERK: The defendant pleads guilty, Your  
11:48:01 9 Honor.

11:48:01 10 THE COURT: Thank you. Mr. Thompson, the  
11:48:04 11 hearing this morning then is for me to decide whether  
11:48:07 12 to accept your guilty plea. Before I can do that, I  
11:48:10 13 have to be satisfied that you're acting voluntarily and  
11:48:13 14 intelligently, that you understand the rights that  
11:48:15 15 you're giving up by pleading guilty and that there is a  
11:48:18 16 factual basis for your guilty plea so I need to ask  
11:48:21 17 questions of you and your lawyer.

11:48:23 18 Anytime you don't understand a question, don't try  
11:48:26 19 to answer me. Tell me you don't understand the  
11:48:28 20 question and I'll reword it. Anytime you want to talk  
11:48:31 21 to your lawyer, don't answer my question. Tell me you  
11:48:35 22 want to talk to your lawyer and I'll let you do that.

11:48:37 23 First of all, sir, have you pleaded guilty to  
11:48:41 24 Counts 1, 3 and 5 because you actually committed those  
11:48:44 25 three crimes?

11:48:47 1 THE DEFENDANT: Yes, sir.

11:48:48 2 THE COURT: Mr. Billings, are you satisfied  
11:48:50 3 the defendant pleaded guilty because he is actually  
11:48:52 4 guilty?

11:48:52 5 MR. BILLINGS: Yes, I am, Your Honor.

11:48:54 6 THE COURT: Mr. Thompson, did you receive a  
11:48:55 7 copy of the indictment?

11:48:57 8 THE DEFENDANT: Yes, sir, I did.

11:48:58 9 THE COURT: Did you have enough time to  
11:48:59 10 discuss the charges with your lawyer?

11:49:01 11 THE DEFENDANT: Yes, I did.

11:49:03 12 THE COURT: Did your lawyer explain to you the  
11:49:06 13 elements and nature of the charged offenses as well as  
11:49:08 14 the penalties that can be imposed?

11:49:11 15 THE DEFENDANT: Yes, he did.

11:49:11 16 THE COURT: Mr. Billings, are you satisfied  
11:49:13 17 that Mr. Thompson understands the charges and the  
11:49:16 18 penalties?

11:49:16 19 MR. BILLINGS: Yes, I am, Your Honor.

11:49:17 20 THE COURT: Mr. Thompson, you're charged in a  
11:49:21 21 six count indictment. You're pleading guilty to  
11:49:24 22 Counts 1, 3 and 5 so I'm going to go over those with  
11:49:27 23 you now.

11:49:27 24 Count 1 charges that from at least November 2008  
11:49:31 25 until about November 24, 2009, that you intentionally

11:49:37 1 conspired with others to distribute or to possess with  
11:49:40 2 intent to distribute five grams or more of cocaine  
11:49:44 3 base, also known as crack.

11:49:48 4 Count 3 charges that on or about November 23 and  
11:49:51 5 24, 2009, that you maliciously damaged property by fire  
11:49:56 6 or attempted to do so, specifically a rental apartment  
11:50:01 7 building at 48 Academy Street in Auburn, Maine, then  
11:50:05 8 being used in interstate commerce or engaged in  
11:50:08 9 activity affecting interstate commerce.

11:50:11 10 Count 5 charges that from at least November 24,  
11:50:16 11 2009, until about February, 2010, that you conspired  
11:50:20 12 with others to distribute or to possess with intent to  
11:50:23 13 distribute five grams or more of cocaine base in  
11:50:27 14 violation of federal law.

11:50:29 15 Do you understand these three charges?

11:50:31 16 THE DEFENDANT: Yes, sir.

11:50:32 17 THE COURT: And the Government has also filed  
11:50:36 18 an information charging a prior conviction of a felony  
11:50:43 19 drug offense in Androscoggin County Superior Court in  
11:50:47 20 Auburn, Maine, entered on March 1, 2007, which will  
11:50:56 21 affect the penalties. Do you understand that that  
11:50:58 22 information has been charged?

11:51:00 23 THE DEFENDANT: Yes, sir.

11:51:01 24 THE COURT: By pleading guilty to these  
11:51:03 25 crimes, let me talk, first of all, about the penalty on

11:51:06 1 Count 3. On Count 3, you're subject to time in prison  
11:51:12 2 of no less than five years and as much as 20 years and  
11:51:16 3 a \$250,000 fine. Following any time in prison, a  
11:51:24 4 period of supervised release of up to three years and  
11:51:25 5 if you should violate any of the terms of that  
11:51:27 6 supervised release, you could be put back into prison  
11:51:29 7 for up to two additional years and you may be required  
11:51:33 8 by court order to pay full restitution to any victims  
11:51:37 9 of that offense.

11:51:39 10 Counsel, for the other counts, I assume I should  
11:51:42 11 warn the defendant in light of the larger penalties  
11:51:45 12 while Douglas is on appeal?

11:51:45 13 MS. MCELWEE: Yes, Your Honor, that would be  
11:51:47 14 great. We had discussed those options and we are both  
11:51:51 15 of the understanding and view that if for some reason  
11:51:56 16 Douglas was remanded, that the defendant would not be  
11:51:58 17 able to withdraw his guilty plea because of the way the  
11:52:00 18 prosecution version has been entered. The indictment  
11:52:03 19 says five grams, but we've put 28 in the prosecution  
11:52:05 20 version, but I think it's appropriate for you to warn  
11:52:08 21 him about that.

11:52:09 22 MR. BILLINGS: Your Honor, I think it's five  
11:52:12 23 or more than 40 on Count 1 and 5, but not five or more  
11:52:19 24 as to Count --

11:52:19 25 THE COURT: But with the previous conviction,

11:52:21 1 would it be ten --

11:52:22 2 MR. BILLINGS: Yes.

11:52:24 3 THE COURT: -- up to life?

11:52:25 4 MS. MCELWEE: That's right, Your Honor.

11:52:26 5 MR. BILLINGS: Yes.

11:52:27 6 THE COURT: Mr. Thompson, what I've just been  
11:52:29 7 discussing with the lawyers is that there was a new law  
11:52:33 8 for crack cocaine passed last year called the Fair  
11:52:37 9 Sentencing Act and there is some disagreement as to  
11:52:40 10 whether it applies to people who committed the conduct  
11:52:43 11 before it went into effect and are being sentenced  
11:52:45 12 thereafter, your situation.

11:52:47 13 I'm going to warn you about the larger penalties  
11:52:50 14 because right now there is a case on appeal to the 1st  
11:52:53 15 Circuit that will decide whether people like you get  
11:52:55 16 the advantage of the new lower penalties or have to pay  
11:52:59 17 the higher penalties.

11:53:01 18 So by pleading guilty to Counts 1 and 5, in light  
11:53:06 19 of the information that's been filed, on each of those  
11:53:10 20 counts you're subject to time in prison of no less than  
11:53:14 21 ten years and as much as life. Following any time in  
11:53:19 22 prison, you're subject to a period of supervised  
11:53:22 23 release of at least eight years and as much as life and  
11:53:25 24 if you should violate any of the terms of that  
11:53:27 25 supervised release, you could be put back into prison



11:53:31 1 for up to three additional years?

11:53:33 2 MS. MCELWEE: That's correct, Your Honor.

11:53:34 3 THE COURT: Three additional years and I think  
11:53:37 4 I did not say this, you're also subject to payment of  
11:53:41 5 the mandatory penalty of \$100 on each of the three  
11:53:44 6 counts.

11:53:45 7 Have I summarized the penalties accurately?

11:53:48 8 MS. MCELWEE: Yes, Your Honor. Thank you.

11:53:49 9 MR. BILLINGS: Yes. Fine with us too, Your  
11:53:50 10 Honor.

11:53:50 11 THE COURT: Do you understand those penalties,  
11:53:51 12 Mr. Thompson?

11:53:52 13 THE DEFENDANT: Yes.

11:53:53 14 THE COURT: Do you understand that you have  
11:53:55 15 the right to continue to plead not guilty to any or all  
11:53:59 16 of these charges?

11:54:00 17 THE DEFENDANT: Yes, sir.

11:54:00 18 THE COURT: You have the right to a trial by  
11:54:03 19 jury, the right to the assistance of your lawyer at  
11:54:07 20 such a trial. If you cannot afford a lawyer, you have  
11:54:10 21 the right to have a lawyer appointed for you at  
11:54:12 22 Government expense; do you understand?

11:54:15 23 THE DEFENDANT: Yes, sir.

11:54:16 24 THE COURT: At a trial, you would not have to  
11:54:18 25 prove that you're innocent, you would be presumed

11:54:20 1 innocent. The Government would have to prove you  
11:54:22 2 guilty beyond a reasonable doubt; do you understand?

11:54:26 3 THE DEFENDANT: Yes, sir.

11:54:27 4 THE COURT: At a trial, the Government  
11:54:29 5 witnesses would have to come into open court and  
11:54:32 6 testify in front of you and your lawyer. Your lawyer  
11:54:35 7 would have the opportunity to cross-examine those  
11:54:37 8 witnesses, to object to evidence the Government  
11:54:42 9 offered, to offer evidence favorable to you and to  
11:54:45 10 compel witnesses to come to court; do you understand?

11:54:48 11 THE DEFENDANT: Yes, sir.

11:54:48 12 THE COURT: At a trial, you would have the  
11:54:51 13 right to testify if you wanted to, but you would also  
11:54:54 14 have the right not to testify and you could not be  
11:54:56 15 required to testify at a trial. If you chose not to  
11:55:01 16 testify, I would instruct the jury that they could draw  
11:55:03 17 no inference or suggestion of guilt from the fact that  
11:55:07 18 you chose not to testify; do you understand?

11:55:09 19 THE DEFENDANT: Yes, sir.

11:55:10 20 THE COURT: If I accept your guilty plea,  
11:55:13 21 you'll have given up your right to a trial and all the  
11:55:15 22 other rights I just described to you and there will be  
11:55:18 23 no trial of any kind on these charges; do you  
11:55:20 24 understand?

11:55:21 25 THE DEFENDANT: Yes, sir.

11:55:22 1 THE COURT: I will proceed to enter a judgment  
11:55:24 2 of guilty and I will sentence you on the basis of your  
11:55:27 3 guilty plea and if all of that happens, you'll have  
11:55:31 4 virtually no right of appeal from your conviction; do  
11:55:34 5 you understand?

11:55:39 6 (Discussion off the record between the  
11:55:45 7 defendant and counsel).

11:55:45 8 MR. BILLINGS: There is no waiver of appeal,  
11:55:47 9 Your Honor, since there's no agreement.

11:55:49 10 THE COURT: I'm talking about the conviction.

11:55:52 11 (Discussion off the record between the  
11:55:54 12 defendant and counsel)

11:55:54 13 THE DEFENDANT: Yes, sir.

11:55:54 14 THE COURT: Let's just be clear on that. What  
11:55:56 15 Mr. Billings is referring to, I'm going to talk to you  
11:55:59 16 in a while that you'll have a right to appeal your  
11:56:02 17 sentence, but you won't have the right to appeal your  
11:56:03 18 conviction; do you understand?

11:56:04 19 THE DEFENDANT: Yes, sir.

11:56:05 20 THE COURT: By pleading guilty, you also give  
11:56:08 21 up your right not to incriminate yourself, at least to  
11:56:12 22 the extent of the questions that I ask you this morning  
11:56:14 23 about your conduct that gave rise to these charges.

11:56:17 24 You must answer those questions truthfully. I'm  
11:56:20 25 going to take your answers as true and act accordingly;

11:56:23 1 do you understand?

11:56:24 2 THE DEFENDANT: Yes, sir.

11:56:25 3 THE COURT: In light of all that I've just  
11:56:26 4 explained to you, do you still choose to plead guilty  
11:56:29 5 to Counts 1, 3 and 5 of the indictment?

11:56:34 6 THE DEFENDANT: Yes, sir.

11:56:36 7 THE COURT: I'm looking now at a document  
11:56:37 8 labeled prosecution version signed by Assistant U.S.  
11:56:40 9 Attorney McElwee dated May 27, 2011. Ms. McElwee, is  
11:56:46 10 this the evidence the Government would produce if the  
11:56:47 11 matter did proceed to trial?

11:56:48 12 MS. MCELWEE: Yes, it is, Your Honor.

11:56:49 13 THE COURT: Thank you. Mr. Billings, have you  
11:56:52 14 read and discussed the prosecution version with Mr.  
11:56:54 15 Thompson?

11:56:54 16 MR. BILLINGS: Yes, I have, Your Honor.

11:56:55 17 THE COURT: Are you satisfied that the  
11:56:56 18 Government can, in fact, produce the evidence contained  
11:56:59 19 in that document?

11:57:00 20 MR. BILLINGS: Yes, I am.

11:57:01 21 THE COURT: Are you satisfied that the  
11:57:02 22 admissible part of that evidence would let a properly  
11:57:06 23 instructed jury find beyond a reasonable doubt that the  
11:57:08 24 defendant is guilty of Counts 1, 3 and 5?

11:57:11 25 MR. BILLINGS: Yes.

11:57:12 1 THE COURT: Mr. Thompson, have you read the  
11:57:13 2 prosecution version and discussed it with your lawyer?

11:57:16 3 THE DEFENDANT: Yes, I have.

11:57:18 4 THE COURT: Is there anything at all in that  
11:57:19 5 document that you disagree with?

11:57:20 6 THE DEFENDANT: No, sir.

11:57:21 7 THE COURT: Is the information given me there  
11:57:24 8 true to your own personal knowledge?

11:57:25 9 THE DEFENDANT: Yes, sir.

11:57:26 10 THE COURT: I read that document before I came  
11:57:29 11 into the courtroom. I find now that there is a factual  
11:57:32 12 basis for the guilty plea to each of Counts 1, 3 and 5  
11:57:36 13 of the indictment. The prosecution version is admitted  
11:57:39 14 as a court exhibit for purposes of this Rule 11  
11:57:43 15 hearing.

11:57:43 16 Mr. Thompson, has anybody threatened you or tried  
11:57:46 17 to force you in anyway to plead guilty?

11:57:48 18 THE DEFENDANT: No, sir.

11:57:48 19 THE COURT: Do you have any plea agreement,  
11:57:51 20 written or verbal, with the prosecution or any  
11:57:54 21 agreement about your sentence or about other charges?

11:57:56 22 THE DEFENDANT: No, sir.

11:57:56 23 THE COURT: The authority to determine the  
11:57:59 24 sentence in this case rests with me as the judge, Mr.  
11:58:03 25 Thompson. I'll listen carefully to recommendations

11:58:06 1 from the prosecutor, from your lawyer, from you if you  
11:58:09 2 wish to speak to me, but none of those recommendations  
11:58:11 3 are binding on me and if the sentence turns out to be  
11:58:14 4 more severe than you hoped for, you'll still be bound  
11:58:19 5 by your guilty plea and have no right to withdraw it;  
11:58:21 6 do you understand?

11:58:22 7 THE DEFENDANT: Yes, sir.

11:58:22 8 THE COURT: There are advisory Sentencing  
11:58:26 9 Commission Guidelines that will have an impact on your  
11:58:28 10 sentence. I have an obligation to calculate the  
11:58:31 11 guideline range, to consider that range, to consider  
11:58:35 12 possible departures under the guidelines and to  
11:58:38 13 consider other factors that are listed in the federal  
11:58:40 14 statute. Have you and your lawyer talked about how  
11:58:43 15 those various issues may affect your sentence?

11:58:45 16 THE DEFENDANT: Yes, sir.

11:58:46 17 THE COURT: I cannot determine what sentence  
11:58:48 18 the guidelines produce until I read a presentence  
11:58:53 19 report that the probation office will prepare and then  
11:58:55 20 I'll give your lawyer and the prosecutor an opportunity  
11:58:59 21 to challenge the facts the probation office reports.

11:59:03 22 Once I determine what guideline applies to your  
11:59:05 23 case, there still may be circumstances where I do not  
11:59:09 24 follow the guideline, but instead impose a sentence  
11:59:12 25 that's more severe or less severe than what the

11:59:15 1 guideline calls for; do you understand?

11:59:17 2 THE DEFENDANT: Yes, sir.

11:59:18 3 THE COURT: And you and the Government will  
11:59:20 4 have the right to appeal the sentence that I impose.

11:59:23 5 Now, you'll be required to actually serve in a  
11:59:26 6 jail or prison all of any imprisonment term that I  
11:59:29 7 impose, except for good time deductions. You'll not be  
11:59:32 8 permitted to serve any part of it on parole; do you  
11:59:35 9 understand?

11:59:35 10 THE DEFENDANT: Yes, sir.

11:59:36 11 THE COURT: Has anyone made any promise to you  
11:59:39 12 to get you to plead guilty?

11:59:40 13 THE DEFENDANT: No.

11:59:41 14 THE COURT: Has anyone made any promise to you  
11:59:43 15 as to what kind of sentence I'll impose?

11:59:46 16 THE DEFENDANT: No.

11:59:47 17 THE COURT: Has anyone made any promise to you  
11:59:49 18 as to what the prosecutor's sentencing recommendation  
11:59:52 19 is going to be?

11:59:53 20 THE DEFENDANT: No.

11:59:53 21 THE COURT: I ask you finally then, do you  
11:59:56 22 still want to plead guilty to Counts 1, 3 and 5 of the  
12:00:00 23 indictment?

12:00:05 24 THE DEFENDANT: Yes, sir.

12:00:06 25 THE COURT: Mr. Billings, do you as Mr.

12:00:08 1 Thompson's lawyer still recommend that I accept his  
12:00:10 2 guilty plea?

12:00:10 3 MR. BILLINGS: Yes, I do, Your Honor.

12:00:11 4 THE COURT: Mr. Thompson, I've observed you,  
12:00:13 5 your demeanor and attitude throughout these proceedings  
12:00:16 6 and find that you're not under the influence of any  
12:00:19 7 substance that might impair your judgment. You  
12:00:21 8 acknowledge that you are, in fact, guilty as charged in  
12:00:24 9 Counts 1, 3 and 5 of the indictment. I find that you  
12:00:26 10 know of your right to a trial and the rights associated  
12:00:30 11 with the right to a trial. I further find that you  
12:00:32 12 know the maximum possible punishment that must be  
12:00:36 13 imposed -- that may be imposed if you're convicted, as  
12:00:39 14 well as certain sentencing floors that I cannot go  
12:00:41 15 below.

12:00:43 16 I find that you've not been coerced, but that you  
12:00:45 17 have voluntarily and knowingly pleaded guilty to  
12:00:48 18 Counts 1, 3 and 5. I therefore now accept your guilty  
12:00:52 19 plea. I hereby order preparation of the customary  
12:00:54 20 presentence report. The probation officer is in the  
12:00:57 21 jury box, Mr. Billings. Meet with her before you leave  
12:01:00 22 to arrange the first interview.

12:01:02 23 Is there anything further at this time from the  
12:01:03 24 Government?

12:01:03 25 MS. MCELWEE: No. No, thank you, Your Honor.



12:01:05 1 THE COURT: From the defense, Mr. Billings?

12:01:07 2 MR. BILLINGS: No, thank you.

12:01:07 3 THE COURT: Thank you. We will stand in

12:01:08 4 recess.

12:01:09 5 (End of proceeding)

6 C E R T I F I C A T I O N

7 I, Dennis Ford, Official Court Reporter for the United  
8 States District Court, District of Maine, certify the  
9 foregoing is a correct transcript from the record of  
10 proceedings in the above-entitled matter.

11 Dated: September 24, 2012

12 /s/ Dennis R. Ford

13 Official Court Reporter

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